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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,338	12/22/2001	Earl David Brock	16,905	2861

23556 7590 10/19/2004

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EXAMINER

KIDWELL, MICHELE M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/028,338

Applicant(s)

BROCK ET AL.

Examiner

Michele Kidwell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/4/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klofta et al. (US 2003/0077307), and further in view of Pregozen (US 5,141,803).

With respect to claim 1, Klofta et al. (hereinafter "Klofta") discloses a system for improving skin health of a wearer comprising a disposable absorbent article that includes an outer cover, liquid permeable bodyside liner that defines a bodyfacing surface and that is connected in superposed relation to the outer cover and an absorbent body that is located between the bodyside liner and the outer cover (page 8, paragraph 89) and a skin care composition on at least a portion of the bodyfacing surface of the bodyside liner that includes from about 40 to about 95 percent by weight of emollient (page 2, paragraph 26; page 3 paragraph 32) and from about 5 to about 60 percent by weight of viscosity enhancer (page 5, paragraph 56) used in conjunction with a wet wipe as set forth on page 8, paragraph 86.

The difference between Klofta and claim 1 is the provision that the wet wipe include a nonwoven substrate and a skin care solution that includes from about 90 to about 99 percent by weight of hydrophilic solvent, from 0 to about 30 percent by weight

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of surfactant and from about 0.1 to about 10 percent by weight of extracted botanical active.

Pregozen teaches a wet wipe that includes a nonwoven substrate (col. 3, lines 18 – 22) and a skin care solution that includes from about 90 to about 99 percent by weight of hydrophilic solvent (col. 2, lines 7 – 8) and from about 0.1 to about 10 percent by weight of extracted botanical active as set forth in col. 4, lines 31 – 44.

It would have been obvious to one of ordinary skill in the art to modify the wipe of Klofta to employ the skin care solution of Pregozen because the skin care solution of Pregozen delivers active skin care ingredients to cleanse the skin while reducing a slippery feel and protecting against contamination as taught by Pregozen in col. 2, lines 51 – 64 and col. 3, lines 18 – 22.

Additionally, the examiner notes that Klofta discloses that the delivery vehicles of the application may be used in any combination on page 8, paragraph 86. Therefore, one of ordinary skill in the art would have had the motivation to include the skin care compositions on the wipe disclosed by Klofta. Likewise, the Klofta reference itself discloses the use of botanical actives as part of the skin care formulation.

With respect to claims 2 – 5, the examiner contends that Klofta in view of Pregozen disclose the claimed invention. The preference of applying the wipe before or after use of the article and/or using the combination once or more than once a day is an obvious matter of design choice that does not patentably distinguish the claimed invention from the prior art because the prior art is fully capable of performing the claimed limitations.

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With reference to claim 6, Klofta discloses an emollient selected from the listed group as set forth on page 3, paragraph 34.

As to claim 7, Klofta discloses the claimed viscosity enhancer on page 6, paragraph 61.

Regarding claims 8 – 9, Klofta discloses from about 5 to about 55% of beeswax as set forth on page 5, paragraph 56 and page 6, paragraph 61.

As to claims 10 and 11, Klofta discloses from about 0.1 – 55 percent of coconut oil as set forth on page 3, paragraph 32 and page 4, paragraph 42.

With reference to claims 12 – 13, Klofta discloses from about 0.1 to about 10 percent of cholesterol as set forth on page 3, paragraph 32 and page 4, paragraph 44.

With respect to claim 14, Klofta discloses a skin care solution with a HLB range of from about 7 to about 18 as set forth on page 7, paragraph 76.

As to claim 15, Klofta discloses a surfactant selected from the listed group as set forth on page 4, paragraph 37.

With reference to claim 16, Koenig teaches the extracted botanical active as yucca on page 1, paragraph 7.

As to claims 17 and 18, Klofta discloses from about 0.1 – 55 percent of coconut oil as set forth on page 3, paragraph 32 and page 4, paragraph 42.

With reference to claims 19 – 20, Klofta discloses from about 0.1 to about 10 percent of soy sterols as set forth on page 3, paragraph 32 and page 4, paragraph 44.

Regarding claims 21 – 22, Klofta discloses from about 0.1 to about 30 percent of glucose as set forth on page 3, paragraph 36.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

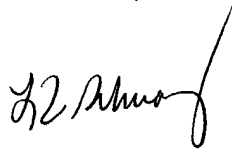
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on 703-308-1412. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Michele Kidwell
Examiner
Art Unit 3761


Larry I. Schwartz
Supervisory Patent Examiner
Group 3700